

SECOND REGULAR SESSION

HOUSE BILL NO. 1700

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOSMER, JOLLY, BRITT, MARSH,
BOUCHER (Co-sponsors) AND MONACO.

Read 1st time January 29, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2728L.01I

AN ACT

To repeal sections 650.050 and 650.055, RSMo, and to enact in lieu thereof two new sections relating to DNA evidence.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 650.050 and 650.055, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 650.050 and 650.055, to read as follows:

650.050. 1. The Missouri department of public safety shall develop and establish a
2 "DNA Profiling System", referred to in sections 650.050 to 650.057 as the system to support
3 criminal justice services in the local communities throughout this state in DNA identification.
4 This establishment shall be accomplished through consultation with the Kansas City, Missouri
5 regional crime laboratory, Missouri state highway patrol crime laboratory, St. Louis, Missouri
6 metropolitan crime laboratory, St. Louis county crime laboratory, southeast Missouri regional
7 crime laboratory, Springfield regional crime laboratory, and the Missouri Southern State College
8 police academy regional crime lab.

9 2. The DNA profiling system as established in this section shall be compatible with that
10 used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable
11 between DNA laboratories and that quality assurance standards issued by the director of the
12 Federal Bureau of Investigations are applied and performed.

13 **3. The DNA profiling system established by this section shall include a separate**
14 **statistical data base containing DNA profiles of persons whose identity is unknown.**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 **Information in this data base may be used for any legitimate law enforcement purpose**
16 **upon written request of any federal, state, or local law enforcement agency, using the**
17 **procedure provided by subsection 3 of section 650.055.**

18 **4. The DNA profiling system may charge a reasonable fee to search and provide a**
19 **comparative analysis of DNA profiles to any law enforcement agency outside of this state.**

650.055. 1. Every individual [convicted], in a Missouri circuit court, [of a felony,
2 defined as a violent offense under chapter 565, RSMo, or as a sex offense under] **who pleads**
3 **guilty to or is convicted of murder in the first degree, murder in the second degree,**
4 **voluntary manslaughter, involuntary manslaughter, assault in the first degree, assault in**
5 **the second degree, unlawful endangerment of another, assault in the third degree, domestic**
6 **assault in the first degree, domestic assault in the second degree, domestic assault in the**
7 **third degree, assault while on school property, assault of a law enforcement officer in the**
8 **first degree, assault of a law enforcement officer in the second degree, assault of a law**
9 **enforcement officer in the third degree, tampering with a judicial officer, harassment,**
10 **aggravated harassment of an employee, elder abuse in the first degree, elder abuse in the**
11 **second degree, or elder abuse in the third degree, incest, endangering the welfare of a child**
12 **in the first degree, abuse of a child, use of a child in sexual performance, promoting sexual**
13 **performance by a child, robbery in the first degree, pharmacy robbery in the first degree,**
14 **robbery in the second degree, burglary in the first degree, burglary in the second degree,**
15 **tampering in the first degree, stealing, armed criminal action, unlawful use of weapons, or**
16 **of any sex offense pursuant to chapter 566, RSMo, excluding sections 566.010 and 566.020,**
17 **RSMo, or of any attempt to commit any of the offenses listed in this subsection** shall have
18 a blood or scientifically accepted biological sample collected for purposes of DNA profiling
19 analysis:

20 (1) Upon entering the department of correction's reception and diagnostic centers; or

21 (2) Before release from a county jail or detention facility; or

22 (3) If such individual is under the jurisdiction of the department of corrections on or after
23 August 28, 1996. Such jurisdiction includes persons currently incarcerated, persons on
24 probation, as defined in section 217.650, RSMo, and on parole, as also defined in section
25 217.650, RSMo.

26 2. The Missouri state highway patrol and department of corrections shall be responsible
27 for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to
28 this section shall be required to provide such sample, without the right of refusal, at a collection
29 site designated by the Missouri state highway patrol and the department of corrections.
30 Authorized personnel collecting or assisting in the collection of samples shall not be liable in any
31 civil or criminal action when the act is performed in a reasonable manner. Such force may be

32 used as necessary to the effectual carrying out and application of such processes and operations.
33 The enforcement of these provisions by the authorities in charge of state correctional institutions
34 and others having custody of those convicted of the felony which shall not be set aside or
35 reversed, is hereby made mandatory.

36 3. The procedure and rules for the collection, analysis, storage, expungement, use of
37 DNA database records and privacy concerns shall not conflict with procedures and rules
38 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
39 data bank system. **A written request to analyze and compare DNA samples provided by any**
40 **federal, state, or local law enforcement agency with those in the Missouri DNA profiling**
41 **system shall be fulfilled if made by any federal, state, or local law enforcement officers in**
42 **furtherance of an official investigation of any criminal offense. The name of the requesting**
43 **law enforcement official and the law enforcement agency for which the request is made**
44 **shall be maintained on file by the DNA profiling system. Any person identified and**
45 **charged with an offense as a result of a search of the Missouri DNA profiling system shall,**
46 **upon written request, be provided a copy of the relevant written search request made by**
47 **law enforcement, if the person submits a DNA sample which matches the requestor's**
48 **profile in the Missouri DNA profiling system. Upon showing by the defendant in a**
49 **criminal case that access to the Missouri DNA profiling system is material to the**
50 **investigation, preparation or presentation of a defense at trial or in a motion for a new**
51 **trial, any court having jurisdiction in such case shall direct the Missouri DNA profiling**
52 **system to compare a DNA profile which has been generated by the defendant through an**
53 **independent test against the profiling system, provided that such DNA has been generated**
54 **in accordance with standards for forensic DNA analysis adopted pursuant to sections**
55 **650.050 to 650.057.**

56 4. **The name of a convicted offender whose profile is contained in the data bases**
57 **may be related to any other data bases which are constructed for law enforcement**
58 **purposes and may be disseminated only for law enforcement purposes except as otherwise**
59 **provided by this section.** Unauthorized uses or dissemination of individually identifiable DNA
60 information in a database for purposes other than criminal justice or law enforcement is a class
61 A misdemeanor.

62 5. **Upon written request of any person whose DNA profile has been included in the**
63 **Missouri DNA profiling system pursuant to this section and whose relevant felony**
64 **conviction has been reversed, the system shall expunge the DNA profile of such person**
65 **from the system, and the Missouri DNA profiling system shall purge all records and**
66 **identifiable information in the system pertaining to such person and destroy all samples**
67 **from such person.**

68 **6.** Implementation of section 650.050 and this section shall be subject to future
69 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
70 Investigation's DNA data bank system.